

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	CASE NO. 4:16-cr-310
Plaintiff,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	<u>DEFENDANT'S PROPOSED</u>
BRENT SEE,)	<u>JURY INSTRUCTION</u>
)	
Defendant.)	

Now comes Defendant, Brent See, by and through undersigned counsel and hereby submits his proposed jury instruction.

DELIBERATE IGNORANCE

Finally, I want to explain something about proving a defendant's knowledge. No one can avoid responsibility for a crime by deliberately ignoring the obvious. If you are convinced that the defendant deliberately ignored a high probability that the items he possessed were silencer parts, then you may find that he knew the items were silencer parts.

Brent See is not required to contact the Alcohol, Tobacco, Firearms and Explosives Firearms Technology Branch in order to seek preapproval before manufacturing the components in questions. However, there is no requirement in the law or regulations for a manufacturer to seek an ATF classification of a product prior to manufacture.¹

You cannot find Brent See guilty for failing to seek classification from the ATF because it is not legal requirement for a manufacturer to seek classification from the ATF.

But to find this, you must be convinced beyond a reasonable doubt that the defendant was aware of a high probability that the items he possessed were silencer parts, and that the defendant deliberately closed his eyes to what was obvious. Carelessness, or negligence, or foolishness on his part is not the same as knowledge, and is not enough to convict. This, of course, is all for you to decide.

¹ *Sig Sauer, Inc. v. Brandon*, 826 F. 3d 598 (2016)
National Firearms Act Handbook, Sec. 7.2.4 (2009)

Respectfully Submitted,

s/Justin A. Markota

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of February 2017, a copy of the foregoing Proposed Jury Instructions was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this system through the Court's system.

s/Justin A. Markota

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